

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 6. ECONOMIC SECURITY

#### CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY

#### SOCIAL SERVICES

#### PREAMBLE

1. **Sections Affected**

|            |                          |
|------------|--------------------------|
| Article 50 | <b>Rulemaking Action</b> |
| R6-5-5001  | New Article              |
| R6-5-5002  | New Section              |
| R6-5-5003  | New Section              |
| R6-5-5004  | New Section              |
| R6-5-5005  | New Section              |
| R6-5-5006  | New Section              |
| R6-5-5007  | New Section              |
| R6-5-5008  | New Section              |
| R6-5-5009  | New Section              |
| R6-5-5010  | New Section              |
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 41-1954(A)(3), 46-134(12), and 41-1967.

Implementing statutes: A.R.S. §§ 41-1954(A)(3), 46-134(12), and 41-1967.
3. **The effective date of the rules:**

November 19, 1996
4. **A list of all previous notices appearing in the Register addressing the final rule:**

**Notice of Rulemaking Docket Opening:**  
1 A.A.R. 1352, August 11, 1995

**Notice of Proposed Rulemaking:**  
2 A.A.R. 1754, May 17, 1996

**Notice of Oral Proceedings:**  
2 A.A.R. 1755, May 17, 1996
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Vista Thompson Brown

Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, Arizona 85005

Telephone: (602)542-6555

Fax: (602)542-6000
6. **An explanation of the rule, including the agency's reason for initiating the rule:**

The Department is proposing this new Article 50, Child Care Resource and Referral System, to implement the provisions of A.R.S. § 41-1967 which requires the Department to adopt administrative rules consistent with the terms of the statute. The rules inform customers how to use the referral service and inform providers how to participate in the referral system. The rules also explain the Department's oversight role and how providers may be excluded or removed from the system.

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7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The summary of the economic, small business, and consumer impact:

The rules will have a positive but intangible economic impact on small business and consumers by clarifying how to participate in and use the service, and how the Department and the Department's Contractors monitor the service. The rules codify many of the processes that the Department has followed, as a matter of policy, for the past 4 years. Although there are costs associated with the operation of this system, those costs are attributable to the statutory mandate to operate the system, rather than to the rules.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules:

**R6-5-5001. Definitions**

Throughout these rules, non substantive corrections were made to punctuation and grammar, and to conform language to the Secretary of State's requirements.

Beginning with definition number 10, all definitions were renumbered due to additions, deletions, or changes which are summarized below.

**R6-5-5001(2)**

To better explain the meaning of the defined term, the phrase "a status that ADE confers on" was added to the definition.

2. *"Alternate approval means a status that ADE confers on an uncertified, unlicensed provider that demonstrates compliance with CACFP child care standards to the ADE."*

**R6-5-5001(5)**

To simplify the terms used, the wording was changed to "under" rather than "pursuant to".

5. *"CCR&R" means Child Care Resource and Referral, a service the Department administers, pursuant to under A.R.S. § 41-1967.*

**R6-5-5001(6)**

To correspond with statutory change the following language was corrected:

"Center" has the same meaning ascribed to "day-care center" "child care facility" in A.R.S. § 36-881(3).

**R6-5-5001(7)**

To simplify the terms used, the phrase "as prescribed in" was changed to "under". The word "holding" was changed to "holds". In addition, the statutory citations were corrected.

7. *"Certified" or "licensed" means a provider holding holds a license as prescribed in A.R.S. § 36-895 A.R.S. § 36-882 or is certified as prescribed in under A.R.S. § 36-895(B) and (C), or is certified as prescribed in under A.R.S. § 36-897 A.R.S. § 36-897.01.*

**R6-5-5001(8)**

The text of the definition, "child with special needs" includes a reference to the Americans with Disabilities Act. That portion of the definition has been clarified and the citation changed to an updated edition of the federal regulation.

8. *"Child with special needs"...The terms used in this subsection have the same meaning as applied under the terms used in the Americans with Disabilities Act (ADA), and its the ADA's implementing regulation, 28 CFR 35.104 (July 1, 1993 1995). This regulation, not including any later amendments or editions, is incorporated by reference, and is on file and is available for inspection with the Department's Authority Library (1700 West Jefferson Phoenix, Arizona 85007) and the Secretary of State's Office (1700 West Washington Phoenix Arizona 85007).*

**R6-5-5001(13 11)**

The term "as recompense" was changed to "in return".

- ~~13 11.~~ *"Compensation" means something given or received as recompense in return for child care, such as money, goods, or services.*

**R6-5-5001(10 14)**

Clarifying wording was added. In addition, phrases or sentences that were not clear or necessary were deleted.

- ~~10 14.~~ *"Dropped for cause" means a Department of Education Sponsoring Organization has termination of terminated a family child care provider from participation in the CACFP. This type of termination prohibits a provider from joining another sponsoring organization and participating in the CACFP.*

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R6-5-5001(41 deleted)

The definition of "dropped for convenience" was deleted because the term was not used in the rules.

R6-5-5001(46 15)

Clarifying language was added to this definition.

*4615. "Exclude" means to refuse to include a particular provider in or to remove a provider from the CCR&R database.*

R6-5-5001(48 deleted)

The definition of "global update" was deleted because the term was not used in the rules.

R6-5-5001(49 deleted)

The definition of "gross negligence" was deleted because the term was not used in the rules.

R6-5-5001(22 19)

Clarifying language was added to this definition.

*22 19. "Listing status" means the information option that a provider selects when the provider asks to be listed on the CCR&R; the two options are referral listing and information listing.*

R6-5-5001(23 deleted)

The definition of "negative action" was deleted because it was only used within another definition, R6-5-5001(24), "negative reason", which has been deleted.

R6-5-5001(24 deleted)

The definition of "negative reason" was deleted because the term was only used in the definitions R6-5-5001(23), R6-5-5001(33), and R6-5-5001(34 27) which have either been deleted or revised to eliminate the term "negative reason".

R6-5-5001(28 deleted)

The definition of "provider's employee" was deleted because the term was not used in the rules.

R6-5-5001(30 24)

This definition was changed to reference the correct subsections.

*30-24. "Referral" means the information listed in R6-5-5005(B), (C), and (D), R6-5-5005 (C), (D), and (E), that a Contractor gives to a customer.*

R6-5-5001(33 deleted)

The definition of "removal without prejudice" was deleted because the term was incorrectly used in R6-5-5008(C), and has since been deleted from that subsection.

R6-5-5001(34 27)

Clarifying wording was added. In addition, phrases that were not clear or necessary were deleted.

*34 27. "Revocation" means the permanent removal of a child care provider's license or certificate by a government agency for a negative reason.*

R6-5-5001(36 29)

Clarifying phrase was added.

*36 29. "Sponsoring organization" means a public or non-profit organization that administers the CACFP on behalf of ADE.*

R6-5-5001(37 30)

Phrases that were not clear or necessary were deleted.

*37 30. "Suspension" means that a regulatory agency has temporarily removed a provider's certificate or license pending other administrative action.*

R6-5-5001(39 32)

Phrases that were not necessary were deleted.

*39 32. "Work day" means 8:00 A.M. to 5:00 P.M., Monday through Friday, excluding Arizona state holidays.*

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**R6-5-5002. Provider Participation Requirements**

To achieve consistency of terms, clarity of process, and to avoid statements that conflict with other rules, revisions were made as follows:

The text from the former subsection (D) is now contained, although revised, within the following subsection (C):

- ~~D C. A Contractor shall add Before adding a provider an unregulated family child care provider to the CCR&R database after obtaining information prescribed in subsections (A), (B), and (C), and verifying that the provider is not subject to exclusion for any reason listed in A.R.S. § 41-1967(E) a Contractor shall review the provider's self statement described in subsection (B) and include on the database only those providers who affirm that they are not subject to exclusion or removal under A.R.S § 41-1967 (E).~~

The text from the former subsection (C) is now contained, although revised, within the following subsection (D).

- ~~G D. Before adding a regulated provider to the CCR&R database, the Contractor shall verify confirm the provider's regulatory status affiliation with the appropriate regulatory agency. For the purpose of this subsection, confirmation of the regulatory affiliation is based solely on the accuracy of the information obtained from the regulatory agency or sponsoring organization.~~

**R6-5-5004. Referrals Not Guaranteed**

This rule was revised to clarify the referral process that is conducted by the Contractors.

~~The Department and its Contractors do not:~~

- ~~1-A. A Contractor shall make referrals to participating providers on a rotating or equitable basis random basis based on families' self-reported needs.~~
- ~~2-B. A Contractor shall not:~~
- ~~2-1. Guarantee the number or frequency of referrals to participating providers; or~~
  - ~~2-2. Guarantee that listing on the CCR&R will result in economic benefit or gain to participating providers.~~

**R6-5-5005. Referral Process**

Clarifying language was added.

- A. To obtain a referral, a customer shall give the contractor the following information, if available, about the customer's child care needs: . . .

A phrase was added to clarify subsection (B).

- B. *A Contractor shall give a customer a referral that is consistent with the customer's stated preferences. . .*
2. If the Contractor cannot name at least 3 potential providers meeting the customer's stated preferences, the Contractor shall ask the customer to expand the search parameters until the Contractor can name at least 3 potential providers.

In subsection (C), items were revised to be in an order and terminology consistent with R6-5-5002(A).

- C. The Contractor shall provide the customer with provider profile information on each referred provider, including the following:
- ~~a-1.~~ 1. Provider's name;
  - ~~b-2.~~ 2. Address or major cross streets;
  - ~~c.~~ 3. City;
  - ~~d-3.~~ 4. Phone number;
  - ~~h-4.~~ 5. Days and hours of operation;
  - ~~e-5.~~ 6. Ages served of children accepted;
  - ~~g-6.~~ 7. Ratio and capacity;
  - ~~i-7.~~ 8. Regulatory status affiliation, if any;
  - ~~8.~~ 9. Meal information;
  - ~~j-9.~~ 10. Training and experience;
  - ~~10.~~ 11. Accreditation;
  - ~~f-11.~~ 12. Fees and available subsidies;
  - ~~h-12.~~ 13. School transportation.

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In subsection (D) the following language has been revised.

- D. As part of a referral, a Contractor shall give each customer a disclaimer statement ~~to each customer. The statement shall include with the following information:~~

**R6-5-5006. Monitoring; Complaint Recording and Reporting Requirements**

The specific citation was deleted and the term "by law" inserted.

- A. *Monitoring and Investigation:* ~~Neither the Department nor its Contractors monitors or investigates the activities of providers, or investigates complaints about providers, except as otherwise prescribed in A.C.C. Title 6, Chapter 5, Article 52 by law for family child care providers.~~

The word "on" was changed to "about".

- B. *Regulated Providers:* Upon receipt of a complaint ~~on about~~ a regulated provider, a Contractor shall refer the complainant to the appropriate regulatory agency, law enforcement agency, or child protective services.

In subsection (C), the phrase "issue raised in the complaint" was substituted for the phrase "nature of the complaint". Additionally the terms "suspected" and "alleged" were added for clarification.

- C. *Unregulated Providers:* The provisions in this subsection govern complaints about unregulated providers.

1. Any person may complain about an unregulated family child care provider on the database by notifying a Contractor. Upon receipt of a complaint on an unregulated family child care provider, a Contractor shall:
  - a. Refer the complainant to the appropriate investigative agency (law enforcement or child protective services), if the ~~nature of issue raised in the complaint is suspected~~ child abuse or neglect;
  - b. Refer the complainant to the Department of Health Services if the ~~nature of issue raised in the complaint is that the provider is alleged to be~~ caring for more children than the law allows; or
  - c. Take the complaint if ~~the nature of the complaint is~~ it raises an issue other than those described in subsections (C)(1)(a) or (b).

The phrase "as much of" has been deleted and the word "if" was substituted for "as is".

2. *If the Contractor takes the complaint as prescribed in subsection (C)(1)(c), the Contractor shall obtain and record, on a Department approved form, ~~as much of the following information, as is if available:~~*

The word "shall" replaced "may", and the phrase "in writing" was deleted because it was not necessary.

5. The provider ~~may shall~~ respond to the complaint ~~in writing~~ by completing the provider response portion of the complaint form within 30 days of the complaint mailing date;

**R6-5-5007. Provider Listing Status**

For clarification and simplification, language was changed as follows:

A. *Regulated Providers:*

1. When the Department learns that a regulatory agency has suspended a regulated provider's license, certificate, or alternate approval, the Department shall direct a Contractor to change ~~a regulated~~ the provider's listing status from referral listing to information listing, ~~according to using the process listed prescribed in R6-5-5009.~~

As in subsection (A) above, other language was substituted for "according to" and "listed". Language was added to clarify the process in which the Department learns something about an unregulated provider. Additionally the term "alleged" was added for clarification and the tense was corrected, as appropriate. The 2 clauses were also inverted to place the conditional clause before the duty clause ("When the Department learns...") or ("When the Department receives...") and ("the Department shall...").

B. *Unregulated Providers:*

1. When the Department ~~learns receives a complaint or is notified~~ that an unregulated provider or program ~~may have failed or may be unable to meet the needs of families due to 1 or more of the following conditions circumstances,~~ the Department shall direct a Contractor to change an unregulated provider's listing status from referral listing to information listing ~~according to using the process listed prescribed in R6-5-5009:~~
  - a. A child ~~was has~~ allegedly ~~been~~ abused, neglected, exploited, or abandoned while in the unregulated provider's care;
  - b. An unregulated provider ~~is has~~ allegedly ~~been~~ involved in activities or circumstances which may threaten the health, safety, or emotional well-being of children, including, but not limited to, acts of physical violence, domestic disputes, or incidents involving deadly weapons or dangerous or narcotic drugs; or
  - c. *An unregulated provider has allegedly violated state licensing requirements by providing care to more than 4 children at any one time for compensation.*

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Added language clarifies the process in subsection (B)(4).

4. The Department shall notify the provider in writing when the ~~provider is returned~~ Department returns the provider to referral status. The Department shall send the notice within 7 work days of the change in status, and shall include the effective date of the change.

**R6-5-5008. Provider Exclusion or Removal**

The language "exclude or" was added to more fully describe the process.

- A. The Department may direct a Contractor to exclude or remove a provider from the database according to the process prescribed in R6-5-5009, for the following reasons:

A fifth reason was added to subsection (A).

5. A provider fails to comply with these rules.

The language "who was" and "without prejudice" was deleted and "as prescribed in" was changed to "under".

- C. A provider, ~~who was removed without prejudice under~~ subsection (B), may request reinstatement by calling the Contractor for the provider's SDA and providing current information.

The word "any" was deleted, and the word "verify" was changed to "confirm".

- D. Upon receipt of a request for reinstatement, the Contractor shall update the information listed in R6-5-5002 and, if applicable, ~~verify~~ confirm that the provider has submitted ~~any~~ information requested by the Department or Contractor.

The word "subsection" was pluralized, and (4) was changed to (5) because a fifth reason was added to subsection (A).

- E. The Contractor shall reinstate the provider unless there are grounds for removal as prescribed in subsections (A)(1) through (4) ~~(5)~~.

**R6-5-5009. Administrative Review Process**

For clarification the word "of" is changed to "on the" in subsection (J)(1).

1. The decision shall be in writing and mailed to the provider's last known address. The ~~date of~~ on the decision is presumed to be the mailing date.

**10. A summary of the principle comments and the agency response to them:**

The Department received public comments, as well as comments from GRRC staff regarding the issues summarized below.

**R6-5-5002 Provider Participation Requirements** The term "verify" and the process described in R6-5-5002(C) solicited comment and caused the Department to review R6-5-5002 thoroughly. One request was that this rule be altered to require that the contractors' verify regulatory "affiliation" on a monthly basis rather than prior to listing with the CCR&R. It was also requested that R6-5-

5002(D) be changed or clarified because the contractor does not have a way to "verify" the information regarding an unregulated family child care provider. The requestor also stated that, as currently written, the language in this subsection conflicts with subsection R6-5-5005(D)(3), which states that the contractor does not . . . "verify information supplied by a provider". In addition it was requested that the language be changed to request that the 3 state agencies act in full cooperation with the contractors' to provide the requested information. The Department's response to the requests is as follows:

- 1 The Department will continue to require that regulatory affiliation be checked ~~prior to~~ listing with the CCR&R.
- 2 The language in the section on verification of the unregulated provider's sworn statement has been clarified.
- 3 The term "verified" was changed to "confirmed", in order to avoid rules with conflicting terminology.

**R6-5-5004 Referrals not guaranteed** It was recommended that the following language be changed because it leads one to believe that referrals are made on an "inequitable" basis: "... Department does not guarantee that referrals are made on an equitable basis". The Department's response is:

- 1 The Department has changed the language to better describe the referral process which is "on a random basis based on families' needs".
- 2 The terms "rotating" and "equitable" were deleted.

**R6-5-5007 Provider listing status** It was suggested that the language in subsection (B)(1) and (2) be changed to clarify that allegations do not necessarily mean that a provider has failed or is unable to meet the family's needs. Additionally, one commentor requested that this rule be deleted because it allows the Department to direct the Contractor to temporarily stop generating referrals to any unregulated family child care provider when the Department learns that a police or child protective services investigation is underway. Further, it was requested that the "substantiation by a law enforcement agency" as defined in the rule, subsection (B)(3) be changed to "when the prosecutorial agency decides to file charges", rather than "when the case is referred to a prosecutorial agency with recommendation to file charges". The Department's response is as follows:

- 1 The Department has added clarifying language to subsection (B)(1) and (2), but has not made significant alterations,

since this rule allows the Department to act responsibly upon receipt of information that warrants investigative action by Child Protective Services, law enforcement agencies, or DHS. The rule also provides for a notification and due process whenever the Department takes any action.

- 2 The Department is only changing the provider's listing status to information listing status during the investigative process and not removing the provider from the CCR&R database.
  - 3 The Department decided to retain the original language of the subsection (B)(3) because it parallels action taken regarding regulated providers.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
  12. Incorporations by reference and their location in the rules:  
R6-5-5001(8)
  13. The full text of the rules follows:

## TITLE 6. ECONOMIC SECURITY

### CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY

#### SOCIAL SERVICES

#### **ARTICLE 50. CHILD CARE RESOURCE AND REFERRAL SYSTEM**

- R6-5-5001. Definitions
- R6-5-5002. Provider Participation Requirements
- R6-5-5003. Notification of Changes
- R6-5-5004. Referrals Not Guaranteed
- R6-5-5005. Referral Process
- R6-5-5006. Monitoring; Complaint Recording and Reporting Requirements
- R6-5-5007. Provider Listing Status
- R6-5-5008. Provider Exclusion or Removal Process
- R6-5-5009. Administrative Review Process
- R6-5-5010. Administrative Appeal Process

#### **ARTICLE 50. CHILD CARE RESOURCE AND REFERRAL SYSTEM**

##### **R6-5-5001. Definitions**

The following definitions apply in this Article.

1. "ADE" means the Department of Education which administers the CACFP at the state level.
2. "Alternate approval" means a status the ADE confers on an uncertified, unlicensed provider that demonstrates compliance with CACFP child care standards to the ADE.
3. "Child care" means a compensated service that is provided to a child unaccompanied by a parent or guardian during a portion of a 24-hour day; the service includes supervised and planned care, training, recreation, and socialization.
4. "CACFP" means the Child and Adult Care Food Program, funded and administered at the federal level by the Food and Consumer Services, an agency of the U.S. Department of Agriculture.
5. "CCR&R" means child care resource and referral, a service the Department administers under A.R.S. § 41-1967.
6. "Center" has the same meaning ascribed to "child care facility" in A.R.S. § 36-881(3).
7. "Certified" or "licensed" means a provider holds a license as prescribed in A.R.S. § 36-882, or is certified under A.R.S. § 36-895(B) and (C), or is certified under A.R.S. § 36-897.01.
8. "Child with special needs" means a child who:
  - a. Has a physical or mental impairment that substantially limits one or more of the child's major life

activities;

- b. Has a record of having a physical or mental impairment that substantially limits 1 or more of the child's major life activities; or
  - c. Is regarded as having such an impairment, whether the child has the impairment or not. The terms used in this subsection have the same meaning as the terms used in the Americans with Disabilities Act (ADA), and the ADA's implementing regulation, 28 CFR 35.104 (July 1, 1995). This regulation, not including any later amendments or editions, is incorporated by reference, and is on file and available for inspection with the Department's Authority Library (1789 West Jefferson, Phoenix Arizona 85007) and the Secretary of State's Office (1700 West Washington, Phoenix Arizona 85007).
9. "Client" or "customer" means a person who is requesting information from a CCR&R Contractor.
  10. "Compensation" means something given or received in return for child care, such as money, goods, or services.
  11. "Contractor" means an agency with which the Department contracts for provision of CCR&R services.
  12. "Database" means a computerized collection of facts, figures, and information arranged for ease and speed of retrieval.
  13. "Department" means the Department of Economic Security.
  14. "Dropped for cause" means a Department of Education Sponsoring Organization has terminated a family child care provider from participation in the CACFP.
  15. "Exclude" means to refuse to include a particular provider in or to remove a provider from the CCR&R database.
  16. "Family child care" means child care provided in a provider's own home.
  17. "In-home child care" means child care provided in a child's own home.
  18. "Information listing" means that a provider listed on the CCR&R has elected to receive training information, and other information about child care issues and activities, but no referrals.
  19. "Listing status" means the information option that a provider selects when the provider asks to be listed on the CCR&R; the two options are referral listing and information listing.

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20. "Personally identifiable information" means any information about a person other than a provider, which, when considered alone, or in combination with other information, identifies or permits another person to readily identify, the person who is the subject of the information, and includes:
  - a. Name, address, and telephone number;
  - b. Date of birth or age;
  - c. Physical description;
  - d. School;
  - e. Place of employment; and
  - f. Any unique identifying number, such as driver's license number or license number.
21. "Program administrator" means the person who administers the Department's Child Care Program, a unit of the Department.
22. "Provider" or "program" means an adult who, or a facility which, provides child care services.
23. "Provider type" means a category of provider or program such as a center, family child care, and in-home child care.
24. "Referral" means the information listed in R6-5-5005(C), (D), and (E), that a Contractor gives to a customer.
25. "Referral listing" means that a provider listed on the CCR&R has elected to receive referrals, training information, and other information about child care issues and activities.
26. "Regulated" means a provider who is required to meet health and safety standards set by a government agency which may include a federal, state, or tribal government agency, or a sponsoring organization.
27. "Revocation" means the permanent removal of a child care provider's license or certificate by a government agency.
28. "SDA" means a service delivery area, which is a specific geographic area where CCR&R services are offered.
29. "Sponsoring organization" means a public or non-profit private organization that administers the CACFP on behalf of ADE.
30. "Suspension" means that a regulatory agency has temporarily removed a provider's certificate or license.
31. "Unregulated provider" means a family child care provider who is not regulated by any government agency or sponsoring organization.
32. "Work day" means Monday through Friday, excluding Arizona state holidays.

**R6-5-5002. Provider Participation Requirements**

- A. To be considered for inclusion in the CCR&R database, a provider shall submit the following information to the Contractor for the provider's SDA:
  1. Provider's name;
  2. Address;
  3. Phone number;
  4. Days and times facility is open;
  5. Ages of children accepted;
  6. Capacity;
  7. Regulatory affiliation, if any;
  8. Meals provided to children in care;
  9. Training and experience;
  10. Accreditation;
  11. Fees;
  12. School transportation; and
  13. The provider's choice of listing status.
- B. In addition to the information listed in subsection (A), an unregulated family child care provider shall complete and submit to the Contractor a notarized, Department-approved form

attesting that the provider is not subject to exclusion or removal from the CCR&R database under any of the grounds specified in A.R.S. § 41-1967(E).

- C. Before adding an unregulated family child care provider to the CCR&R database, a Contractor shall review the provider's self statement described in subsection (B) and include on the database, only those providers who affirm that they are not subject to exclusion or removal under A.R.S. § 41-1967(E).
- D. Before adding a regulated provider to the CCR&R database, the Contractor shall confirm the provider's regulatory affiliation with the appropriate regulatory agency. For the purpose of this subsection, confirmation of the regulatory affiliation is based solely on the accuracy of the information obtained from the regulatory agency or sponsoring organization.

**R6-5-5003. Notification of Changes**

- A. A provider listed on the CCR&R database shall notify the Contractor of any changes to the information or statement given pursuant to R6-5-5002(A) or (B).
- B. A provider may change listing status at any time by notifying the Contractor.

**R6-5-5004. Referrals Not Guaranteed**

- A. A Contractor shall make referrals to participating providers on a random basis based on families' self reported needs.
- B. A Contractor shall not:
  1. Guarantee the number or frequency of referrals to participating providers; or
  2. Guarantee that listing on the CCR&R will result in economic benefit or gain to participating providers.

**R6-5-5005. Referral Process**

- A. To obtain a referral, a customer shall give the contractor the following information, if available, about the customer's child care needs:
  1. Customer name,
  2. Address,
  3. Phone number,
  4. Days and times child care is needed,
  5. Preferred type of child care provider,
  6. Location where care is needed or preferred, and
  7. Age of child.
- B. A Contractor shall give a customer a referral that is consistent with the customer's stated preferences.
  1. The Contractor shall not make a referral unless the Contractor can give the customer the names of at least 3 potential providers within the customer's search parameters.
  2. If the Contractor cannot name at least 3 potential providers meeting the customer's stated preferences, the Contractor shall ask the customer to expand the search parameters until the Contractor can name at least 3 potential providers.
- C. The Contractor shall provide the customer with provider profile information on each referred provider, including the following:
  1. Provider's name,
  2. Address or major cross streets,
  3. Phone number,
  4. Days and hours of operation,
  5. Ages of children accepted,
  6. Ratio and capacity,
  7. Regulatory affiliation, if any,
  8. Meal information,
  9. Training and experience,
  10. Accreditation,
  11. Fees and available subsidies,



12. School transportation.
- D. As part of a referral, a Contractor shall give each customer a disclaimer statement with the following information:
  1. That the Contractor selects providers based on the customer's stated preferences;
  2. That the Contractor provides referrals and does not recommend, endorse, or guarantee any particular child care provider;
  3. That the Contractor does not regulate, monitor, or verify information supplied by a provider; and
  4. That a child's parent or guardian is solely responsible for choosing an appropriate child care provider to meet a family's needs.
- E. As part of a referral, a Contractor shall provide the customer with the following Department-approved educational information:
  1. A list of criteria to consider when selecting quality child care;
  2. A description of the types of child care providers in Arizona;
  3. A description of CCR&R services and a list of office locations and phone numbers statewide; and
  4. An explanation of the process for filing a child care related complaint.

**R6-5-5006. Monitoring; Complaint Recording and Reporting Requirements**

- A. Monitoring and Investigation: Neither the Department nor its Contractors monitors or investigates the activities of providers, or investigates complaints about providers, except as otherwise prescribed by law for family child care providers.
- B. Regulated Providers: Upon receipt of a complaint about a regulated provider, a Contractor shall refer the complainant to the appropriate regulatory agency, law enforcement agency, or Child Protective Services.
- C. Unregulated Providers: The provisions in this subsection govern complaints about unregulated providers.
  1. Any person may complain about an unregulated family child care provider on the database by notifying a Contractor. Upon receipt of a complaint on an unregulated family child care provider, a Contractor shall:
    - a. Refer the complainant to the appropriate investigative agency (law enforcement or child protective services), if the issue raised in the complaint is suspected child abuse or neglect;
    - b. Refer the complainant to the Department of Health Services if the issue raised in the complaint is that the provider is alleged to be caring for more children than the law allows; or
    - c. Take the complaint if it raises an issue other than those described in subsections (C)(1)(a) or (b).
  2. If the Contractor takes the complaint as prescribed in subsection (C)(1)(c), the Contractor shall obtain and record, on a Department approved form, the following information, if available:
    - a. Provider name and address;
    - b. Summary of the complaint, including date and time of incident;
    - c. Name, address, and phone number of the person making complaint, if the complainant does not choose to be anonymous; and
    - d. If applicable, witness information, such as name, address and phone number.
  3. The person recording the information shall sign and date the form.
  4. After redacting personally identifiable information, the Contractor shall send the complaint form to the provider

for response.

5. The provider shall respond to the complaint by completing the provider response portion of the complaint form within 30 days of the complaint mailing date;
6. The Contractor shall allow the public to inspect the complaint, and the provider's response, if given, with all personally identifiable information redacted. The Contractor shall make complaints available for public inspection, at the Contractor's office, after the 30-day provider response period has expired.

**R6-5-5007. Provider Listing Status**

**A. Regulated Providers:**

1. When the Department learns that a regulatory agency has suspended a regulated provider's license, certificate, or alternate approval, the Department shall direct a Contractor to change the provider's listing status from referral listing to information listing, using the process prescribed in R6-5-5009.
2. If a Contractor has changed a provider to information listing status as prescribed in subsection (A)(1), the Department shall direct the Contractor to return the provider to referral listing status when the regulatory agency removes the provider's suspension status.
3. The Department shall notify the provider in writing when the Department returns the provider to referral status. The Department shall send the notice within 7 work days of the change in status, and shall include the effective date of the change.

**B. Unregulated Providers:**

1. When the Department receives a complaint or is notified that an unregulated provider or program may have failed or may be unable to meet the needs of families due to 1 of the following circumstances, the Department shall direct a Contractor to change an unregulated provider's listing status from referral listing to information listing using the process prescribed in R6-5-5009:
  - a. A child has allegedly been abused, neglected, exploited, or abandoned while in the unregulated provider's care;
  - b. An unregulated provider has allegedly been involved in activities or circumstances which may threaten the health, safety, or emotional well-being of children, including, but not limited to, acts of physical violence, domestic disputes, or incidents involving deadly weapons or dangerous or narcotic drugs; or
  - c. An unregulated provider has allegedly violated state licensing requirements by providing care to more than 4 children at any one time for compensation.
2. If a Contractor has changed a provider to information listing status, as prescribed in subsection (B)(1), the Department shall direct the Contractor to return the provider to referral listing status when 1 of the following occurs:
  - a. Child Protective Services or a law enforcement agency determines that the allegation cannot be substantiated;
  - b. Child Protective Services or a law enforcement agency determines that the threat to children has been eliminated; or
  - c. The Department of Health Services determines that the provider may continue child care activities without obtaining a certificate or license.
3. As used in subsection (B)(2), substantiation by a law enforcement agency means that law enforcement has referred a case to a prosecutorial agency with a recommendation to file charges.

4. The Department shall notify the provider in writing when the provider is returned to referral status. The Department shall send the notice within 7 work days of the change in status, and shall include the effective date of the change.

**R6-5-5008. Provider Exclusion or Removal**

- A. The Department may direct a Contractor to exclude or remove a provider from the database according to the process prescribed in R6-5-5009, for the following reasons:
  1. The provider fails or refuses to provide information as requested by the Department or a Contractor;
  2. A regulatory agency verifies that the provider's license, certificate, or alternate approval has been revoked, terminated, or dropped for cause;
  3. The Department learns that the information in the written, sworn, and notarized statement submitted by the provider pursuant to R6-5-5002(B) is false;
  4. The provider is subject to removal for any reason listed in A.R.S. § 41-1967(E); or,
  5. The provider fails to comply with these rules.
- B. A Contractor may summarily and without notice remove a provider from the CCR&R database for the following reasons:
  1. The Contractor is unable to contact the provider because:
    - a. The provider's phone is disconnected;
    - b. The provider is no longer at the last known address and has given no forwarding address; or
    - c. The provider has died; or
  2. The provider requests removal.
- C. A provider removed under subsection (B) may request reinstatement by calling the Contractor for the provider's SDA and providing current information.
- D. Upon receipt of a request for reinstatement, the Contractor shall update the information listed in R6-5-5002 and, if applicable, confirm that the provider has submitted information requested by the Department or Contractor.
- E. The Contractor shall reinstate the provider unless there are grounds for removal as prescribed in subsections (A)(1) through (5).

**R6-5-5009. Administrative Review Process**

- A. When the Department receives information indicating that the Department may need to change the provider's listing status or remove or exclude a provider, the Department Program Administrator or designee shall review the information and decide whether grounds exist as listed in R6-5-5007 or R6-5-5008(A).
- B. If the Department decides to change the provider's listing status or to remove or exclude a provider, the Department shall:
  1. Notify the Contractor to change the listing status or to remove or exclude the provider; and
  2. Within 7 work days of the effective date of the change of listing status, removal or exclusion, send the provider written notice of the action taken.
- C. The notice shall include the following information:
  1. The effective date of the change in listing status or the removal or exclusion;
  2. The reason for the change in listing status or the removal or exclusion;
  3. The statutory provision requiring the provider's change in listing status or the removal or exclusion;
  4. An explanation of the provider's right to an administrative review; and,

5. A statement explaining where the provider may file a written request for an administrative review and the time period for doing so.

- D. The Department shall mail the notice to the provider's last known address. The mailing date is presumed to be the date appearing on the notice.
- E. A provider may request an administrative review by filing a written request for review with the Department, within 15 calendar days after the mailing date of the Department's notice.
- F. The provider shall mail the written request for administrative review to:
 

Department of Economic Security  
Child Care Administration  
Program Administrator  
P.O. Box 6123 S.C. 801A  
Phoenix, Arizona 85005
- G. In the written request, the provider shall include the reason for requesting an administrative review and any documentation supporting the reinstatement request.
- H. A request for an administrative review is timely if:
  1. The Department receives it within the 15-day appeal period prescribed in subsection (E); or
  2. The envelope in which the request was mailed is post-marked or postage-meter marked within the 15 day period prescribed in subsection (E).
- I. The Program Administrator or designee shall review the Department's decision and all documentation submitted by the provider.
- J. The Program Administrator or designee shall notify the provider and the Contractor of the results of the administrative review within 15 work days from the date the Department receives the request for review.
  1. The decision shall be in writing and mailed to the provider's last known address. The date on the decision is presumed to be the mailing date.
  2. The decision shall include information about the provider's right to further appeal.
- K. The provider may appeal the Department's decision as prescribed in R6-5-5010.

**R6-5-5010. Administrative Appeals Process**

- A. A provider may appeal the Department Administrative Review decision as prescribed in A.A.C. R6-5-2401 et. seq., by filing a request for an appeal with the Department within 15 days after the mailing date of the Department's administrative review decision described in R6-5-5009(I).
- B. A provider shall mail the written request for an appeal to:
 

Department of Economic Security  
Child Care Administration  
Program Administrator  
P.O. Box 6123 S.C. 801A  
Phoenix, Arizona 85005
- C. In the written request, the provider shall include the reason for requesting an appeal and any documentation supporting the request.
- D. A request for an appeal is timely if:
  1. The Department receives it within the 15-day appeal period prescribed in subsection (A); or
  2. The envelope in which the request was mailed is post-marked or postage-meter marked within the 15-day period prescribed in subsection (A).

Notices of Final Rulemaking

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER POLLUTION CONTROL

PREAMBLE

1. **Sections Affected**  
R18-9-105  
R18-9-128
- Rulemaking Action**  
Amend  
Repeal
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 49-761(A), 49-761(F), and 49-203  
Implementing statutes: A.R.S. §§ 49-761(A), 49-761(F), and 49-203
3. **The effective date of the rules:**  
November 12, 1996
4. **A list of all previous notices appearing in the Register addressing the final rule:**  
**Notice of Rulemaking Docket Opening**  
2 A.A.R. 2029, May 17, 1996  
**Notice of Proposed Rulemaking**  
2 A.A.R. 1767, May 17, 1996
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
**Primary Contact:**  
Name: Lynn A. Keeling  
Address: Department of Environmental Quality  
3033 North Central Avenue, 8th Floor  
Phoenix, Arizona 85012-2809  
Telephone: (602) 207-2223 or (800) 234-5677, ext. 2223 (Arizona only)  
TTD: 602) 207-4829 or (800) 234-5677, ext. 4829 (Arizona only)  
Fax: (602) 207-2251  
**Secondary Contact:**  
Name: Martha L. Seaman  
Address: Department of Environmental Quality  
3033 North Central Avenue, 8th Floor  
Phoenix, Arizona 85012-2809  
Telephone: (602) 207-2222 or (800) 234-5677 ext. 2222 (Arizona only)  
Fax: (602) 207-2251  
TTD: (602) 207-4829 or (800) 234-5677 ext. 4829 (Arizona only)
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Department of Environmental Quality (ADEQ) is repealing the Aquifer Protection Permit (APP) General Permit Rules set out in R18-9-128 because these rules are now included in the Land Application of Biosolids rules, which have been adopted into 18 A.A.C. 13, Article 15. The final rule for the Land Application of Biosolids was published in May 17, 1996, issue of the *Arizona Administrative Register*. This final rule repeals a rule (R18-9-128) that has regulated the land application of sewage sludge (now called "biosolids") on agricultural lands in order to ensure the protection of groundwater quality. This repealed rule should have been finalized with the rulemaking that created 18 A.A.C. 13, Article 15, because the result of the new Article and repealed rule consolidates the ADEQ's sewage sludge requirements for all land application of biosolids. Due to a procedural error, the Governor's Regulatory Review Council required ADEQ to re-notice, re-propose, and re-adopt this rule. In a prior rulemaking the rule to be repealed was incorporated into the subject matter of 18 A.A.C. 13, Article 15 with an amendment to R18-9-105, expressly showing the class exemption from the APP program.  
  
To prevent land application of biosolids from being regulated by both the Water Quality Division and the Waste Programs Division, this rulemaking exempts land-application activities which comply with the new biosolids rules from also having to comply with APP requirements. A.R.S. § 49-250 authorizes a class exemption from APP, if the ADEQ Director finds either that there is no

**Notices of Final Rulemaking**

reasonable probability of degradation of the aquifer, or that aquifer water quality will be maintained and protected because the discharges are regulated under another program that provides the same or greater aquifer water quality protection. The biosolids rule contains requirements that maintain and protect aquifer water quality by reducing the probability and regulating discharges. Standards carried over from APP are found in the Management Practices, A.A.C. R18-13-1507, and Site Restrictions, A.A.C. R18-13-1508.

The regulations which maintain and protect the aquifer include limitations on the application rates of pollutants (including nitrogen) depth to groundwater based on soil type (porosity), crop uptake of irrigation and pollutants, hydraulic loading of the soil, setbacks from wells, and other site restrictions. Regulated pollutants have been updated from APP based upon Part 503 (the federal program regulating biosolids) and a court decision. Although there is a specific depth to groundwater in the APP general permit being repealed, the new regulatory program for biosolids incorporates the risk analysis performed by the EPA which was based on more shallow depths than previously allowed under APP. Therefore, the Department believes that the protections found in the new biosolids program provides the same or greater aquifer water quality protection.

Part 503 does not expressly state a required depth to groundwater for land application of biosolids. The new biosolids rule (R18-13-1501 *et seq.*) retains a depth to groundwater which has been modified from 40 feet in R18-9-128, to different depths depending upon the type of biosolids that are land applied. The new biosolids rule allows biosolids with Class A pathogen reduction to be land applied where depth to groundwater is greater than five feet, which is more restrictive than the Part 503 program. Biosolids with Class B pathogen reduction may be applied where depth to groundwater is greater than ten feet, which is more restrictive than the Part 503. The reason for modifying the depth to groundwater previously found in R18-9-128 is because this biosolids rule applies to all types of land application of biosolids, whereas R18-9-128 only applied to land application of biosolids on agricultural land. While ADEQ found reasonable cause to become less restrictive than the rule being repealed, on the depth to groundwater, in order to maintain the integrity of aquifers and the environment, other areas of R18-9-128 could not be compromised. The APP general permit requires the cumulative loading of five metals be tracked, regardless of the concentration of the metals in the biosolids. Part 503 requires analysis of additional metals, however, the tracking of metal accumulation may be waived based on the concentration of metals in the biosolids. Therefore, the new biosolids rule requires analysis and tracking of the accumulation of ten metals. The crop uptake and irrigation standards remain the same as APP and conform to Part 503. The hydraulic loading of the soil was retained for land application of liquid biosolids. The loading rate of nitrogen is key to the protection of aquifers and is limited to agronomic rates.

Exceptions for land application that cannot meet the requirements found in A.A.C. R18-13-1507, Management Practices of the new biosolids program, such as nitrogen loading for land reclamation, may still be granted the ability to land apply through the full permit process in APP. An individual APP permit will be required to establish alternative management practices. This enables comprehensive review of the activity by the Department to ensure aquifer water quality protection. In addition, the individual APP permit will stipulate that all other requirements found in Article 15 shall be met.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**8. The summary of the economic, small business, and consumer impact:**

The rulemaking repeals the existing Aquifer Protection Program's rules for the application of sewage sludge to agricultural lands. However, because the purpose for this repeal is to relocate all of these requirements in a new Article the requirements are retained in a different format within the solid waste rules rather than the Aquifer Protection Program. The Department has found no economic impact to any entity in the state, including small businesses and consumers by this relocation of rules and the cross reference.

**9. A description of the changes between the proposed rules, including supplemental notices, and final rules:**

**ISSUE:** One commenter suggested that the citations be changed to conform to the Secretary of State style.

**ANALYSIS:** The Department prefers to make formatting changes for an entire section of text when the entire Section is reviewed. Since this was possible during the rulemaking the Department made the changes noted below.

**RESPONSE:** The Department amended R18-9-105 as follows:

**BEFORE:**

1. Facilities which treat, store, or dispose of hazardous waste and which have been issued a permit or which have interim status, pursuant to the Resource Conservation and Recovery Act (P.L. 94-580; 90 Stat. 2796; 42 United States Code sections 6901 *et. seq.*, as amended) or the rules adopted pursuant to A.R.S. § 49-922.
4. Land application of biosolids in compliance with Title 18, Chapter 13, Article 15.

**AFTER:**

1. Facilities which treat, store, or dispose of hazardous waste and which have been issued a permit or which have interim status, pursuant to the Resource Conservation and Recovery Act (P.L. 94-580; 90 Stat. 2796; 42 United States Code sections U.S.C. 6901 *et. seq.*, as amended) or the rules adopted pursuant to A.R.S. § 49-922.
4. Land application of biosolids in compliance with A.A.C. Title 18, Chapter 13, Article 15.

**Notices of Final Rulemaking**

**10. A summary of the principal comments and the agency response to them:**

The Department was requested to update the citations found in the rule text. The Department made the changes.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable.

**12. Incorporations by reference and their location in the text:**

Not applicable.

**13. Whether the rule was previously adopted as an emergency rule and, if so, whether the text was changed between adoption as an emergency and the adoption of these final rules:**

Not applicable.

**14. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**WATER POLLUTION CONTROL**

**ARTICLE 1. AQUIFER PROTECTION PERMITS**

**R18-9-105. Class Exemptions**

**R18-9-128. General permits: Agricultural Application of Wastewater Sludge**

**ARTICLE 1. AQUIFER PROTECTION PERMITS**

**R18-9-105. Class Exemptions**

In addition to the classes or categories of facilities listed in A.R.S. § 49-250(B), the following classes or categories of facilities are exempt from the permit requirements of this Article:

1. Facilities which treat, store, or dispose of hazardous waste and which have been issued a permit or which have interim status, pursuant to the Resource Conservation and Recovery Act (P.L. 94-580; 90 Stat. 2796; 42 United States Code sections U.S.C. 6901 et. seq., as amended) or the rules adopted pursuant to A.R.S. § 49-922.
2. Underground storage tanks which contain regulated substances as defined in A.R.S. § 49-1001(8).
3. Facilities for the disposal of solid waste, as defined in A.R.S. § 49-701(12), which are located in unincorporated areas and which only receive solid waste from four or fewer households.
4. Land application of biosolids in compliance with 18 A.A.C. 13, Article 15.

**R18-9-128. General Permits: Agricultural Application of Wastewater Sludge**

- A.** A General Permit is issued for agricultural applications of wastewater sludge meeting all of the conditions described in this section.
- B.** Any sludge stored at the application site for more than 24 hours shall be stored in water-tight manner.
- C.** The site at which the sludge is applied is subject to the following conditions:
1. The sludge shall not be stored or applied closer than 250 feet from any water well, other than a public or semi-public drinking water well, or closer than 1,000 feet from any public or semi-public drinking water supply well.
  2. The sludge shall not be applied to land with slopes greater than six percent.
  3. Application sites within the 100-year floodplains shall be approved by the local floodplains administrator.
  4. The sludge shall not be applied to land where the mean annual groundwater elevation is less than 40 feet below the land surface.
- D.** The sludge shall be applied as follows:
1. All sludge shall be uniformly distributed and incorpo-

rated.

2. A new crop shall be grown with each application of sludge.

3. The sludge shall not be applied to frozen or snow-covered ground or to saturated soils.

- E.** The rate at which the sludge is applied is subject to all of the following:

1. The sludge shall be applied at a rate not to exceed eight dry tons per acre.
2. The sludge shall not be applied to soil with pH of less than 6.5 at the time of the sludge application.
3. No more than 10% of the maximum allowable cumulative metal application shall be applied annually. The maximum allowable cumulative metal application varies with the cation exchange capacity (CEC) of the soil and shall be determined based on the following table:

Max. Allowable Cumulative Metals Application (lbs/acre)

| CEC    | Less Than 5 | 5 to 15 | Greater than 15 |
|--------|-------------|---------|-----------------|
| Metals |             |         |                 |
| Lead   | 500         | 1000    | 2000            |
| Zinc   | 250         | 500     | 1000            |
| Copper | 125         | 250     | 500             |
| Nickel | 50          | 100     | 200             |

4. The annual application of cadmium shall not exceed 0.5 Kg/ha or 0.45 pounds per acre.

5. The application of sludge shall not result in an application of nitrogen that exceeds the nitrogen requirement of the crop to be grown with that sludge application.

6. The application of the sludge shall not result in a hydraulic loading rate that exceeds 27,000 gallons per acre per application.

7. The sampling required to determine the application rates described in this Section shall be performed no more than one month prior to the application.

- F.** The analyses required to determine the application rates described in this Section shall be performed by laboratories certified by the state if such certification procedures exist.

- G.** Records relating to sludge application shall be kept and shall be available as follows:

1. Copies of any soil, crop, sludge, or water monitoring record shall be made available to the owner of the wastewater treatment facility from which the sludge was obtained and to the Department.

2. A record of the sludge application at each site shall be kept and submitted monthly to the owner of the wastewater treatment facility and made available to the Department.

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~~ment. The record shall include the dates of sludge application and weather conditions on those dates; the amounts, quality, and source of the sludge; the location within the site where the sludge was applied; and the cumulative amounts of nutrients and heavy metals~~

~~applied to each field.~~  
~~H. The irrigation of the application site with fresh water shall not exceed the consumptive use of the crop and evapotranspiration needs.~~

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

PREAMBLE

1. **Sections Affected**  
R19-3-329
- Rulemaking Action**  
New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 5-504  
Implementing statute: A.R.S. § 5-504
3. **The effective date of the rules:**  
November 22, 1996
4. **A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening  
2 A.A.R. 3920, September 6, 1996  
Notice of Proposed Rulemaking  
2 A.A.R. 4160, October 4, 1996
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Jody Spicola, Executive Director  
Address: Arizona State Lottery Commission  
4740 East University Drive  
Phoenix, Arizona 85034  
Telephone: (602) 921-4400
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
R19-3-329 sets forth provisions unique to the conduct of this instant game. The provisions of this rule are necessary to implement the requirements of A.R.S. § 5-504(B). The unique provisions described in this rule are the nature and location of play symbols, the ticket number, the validation code, the prize denominations, and the method of selecting a winning ticket.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.
8. **The summary of the economic, small business, and consumer impact:**  
This game will provide our players with a larger variety of instant games with a potential increase in sales. The only impact these rules have upon Lottery retailers is to specify how they determine if a ticket is a winning ticket and, if so, the prize amount.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules:**  
Subsection (A) The quotation marks (" ") around each play symbol were deleted.  
Subsection (B) The quotation marks (" ") around each play spot were deleted.  
Subsection (F) The word "nor" was added twice to the following sentence: "Neither the retailer validation code (or any portion thereof), nor the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols, and are not usable or playable as such."
10. **A summary of the principal comments and the agency response to them:**  
No comments were received by the agency.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.
12. **Incorporations by reference and their location in the text:**  
None.

13. Whether the rule was previously adopted as an emergency rule and, if so, whether the text was changed between adoption as an emergency and the adoption of these final rules:  
No.

14. The full text of the rules follows:

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 3. INSTANT LOTTERY GAMES**

Section

R19-3-329. "Bonus Bingo"

**ARTICLE 3. INSTANT LOTTERY GAMES**

**R19-3-329. "Bonus Bingo"**

- A. In the latex play area located on the right side of the ticket, 4 play areas called "PLAYER'S CARDS" appear and are identified as "CARD 1", "CARD 2", "CARD 3", and "CARD 4". Within each "CARD", 5 play symbols appear in a vertical row with "B" above and are 1 of the following: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, or 15. Five play symbols appear in a vertical row with "I" printed above, and are 1 of the following: 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, or 30. Five play symbols appear in a vertical row with "N" printed above, and are 1 of the following: 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, or 45. The 3rd play spot in column "N" will always be the word "FREE". Five play symbols appear in a vertical row with "G" printed above, and are 1 of the following: 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, or 60. Five play symbols appear in a vertical row with "O" printed above, and are 1 of the following: 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, or 75.
- B. In the latex area located on the left side of the ticket is a play area identified as "CALLER'S CARD". Twenty-four play spots appear in 3 columns of 8 and are 1 of the following: B1, B2, B3, B4, B5, B6, B7, B8, B9, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, and O75.
- C. Two rows of 3 numbers appear below the "CALLER'S CARD" play spots with the words "BONUS NUMBERS" printed on the latex covering and are 1 of the following: B1, B2, B3, B4, B5, B6, B7, B8, B9, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, and O75.
- D. A pack-ticket number beginning with 700001 is located on the lower-left area on the back of the ticket.
- E. The retailer validation code verifies instant winners of a \$2, \$3, \$5, \$10, \$25, \$30, \$40, \$50, \$150, \$200, or \$250 ticket. The retailer validation code which corresponds with and verifies each of these winners is as follows:

|      |   |     |       |   |     |
|------|---|-----|-------|---|-----|
| \$2  | = | TWO | \$40  | = | FTY |
| \$3  | = | THR | \$50  | = | FFY |
| \$5  | = | FIV | \$150 | = | OFY |
| \$10 | = | TEN | \$200 | = | TWH |
| \$25 | = | TWF | \$250 | = | THF |
| \$30 | = | TRY |       |   |     |

E. A prize winner in the "BONUS BINGO" instant game is determined by removing the latex from the "CALLER'S CARD" play area plus the 6 "BONUS NUMBERS" on the front of the ticket to determine the play symbols. The player matches the play symbols on the "CALLER'S CARD" and "BONUS NUMBERS" area to the play symbols on the 4 "PLAYER'S CARDS". Neither the retailer validation code (or any portion thereof), nor the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols and are not usable or playable as such. If the player matches 5 consecutive play symbols on 1 of the 4 "PLAYER'S CARDS" in any horizontal, vertical, or diagonal line as shown in illustration number 1 on the back of each "BONUS BINGO" instant game and Exhibit "A", matches play symbols in all 4 corners in one of the 4 "PLAYER'S CARDS" as shown in illustration number 2 on the back of each "BONUS BINGO" card and Exhibit "B", or matches 5 consecutive play symbols in both diagonals forming an "X" in any 1 of the 4 cards as shown in illustration number 3 on the back of each "BONUS BINGO" instant game and Exhibit "C", the player wins the prize amount indicated on the appropriate winning "PLAYER'S CARD." Players can win up to 4 times on a ticket. The prizes are as follows:

|   |                                      |
|---|--------------------------------------|
| horizontal, vertical, or diagonal line, Card 1 =  | \$2 (two dollars) or                 |
| horizontal, vertical, or diagonal line, Card 2 =  | \$3 (three dollars) or               |
| horizontal, vertical, or diagonal line, Card 1 plus Card 2 =  | \$5 (five dollars) or                |
| horizontal, vertical, or diagonal line, Card 3 =  | \$10 (ten dollars) or                |
| horizontal, vertical, or diagonal line, Card 4  | \$25 (twenty-five dollars) or        |
| horizontal, vertical, or diagonal line, on Card 1, plus Card 2, plus Card 4 =                               | \$30 (thirty dollars) or             |
| horizontal, vertical, or diagonal line on Card 1, plus Card 2, plus Card 3, plus Card 4 =                   | \$40 (forty dollars) or              |
| four corners, Card 2  | \$50 (fifty dollars) or              |
| both diagonal lines ("X"), Card 1 =   | \$150 (one-hundred fifty dollars) or |
| four corners on Card 1, plus 4 corners on Card 3, plus a horizontal, vertical, or diagonal line on Card 4 = | \$200 (two hundred dollars) or       |
| four corners on Card 2, plus both diagonal lines ("X") on Card 1 =  | \$200 (two hundred dollars) or       |

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four corners on Card 4 =

\$250 (two hundred fifty dollars) or

both diagonal lines ("X") on Card 3 =

\$1,000 (one thousand dollars) or

four corners on Card 1, plus Card 2, plus Card 3, plus a horizontal, vertical, or diagonal line on Card 4 =

\$250 (two-hundred fifty dollars) or

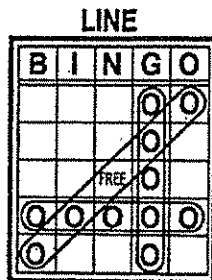
both diagonal lines ("X") on Card 4 =

\$10,000 (ten thousand dollars)

both diagonal lines ("X") on Card 2 =

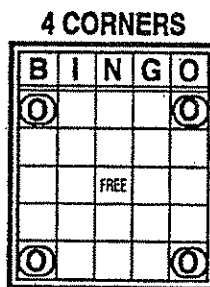
\$250 (two hundred fifty dollars) or

Exhibit A



1 - Match all Bingo numbers in a complete horizontal, vertical, or diagonal line to win \$2 to \$25

Exhibit B



2 - Match all Bingo numbers in all 4 corners to win \$25 to \$250

Exhibit C



3 - Match all Bingo numbers that make a complete "X" (8 numbers and "FREE" space) to win \$150 to \$10,000